

HEIRS OF MELECIO APIADO REPRESENTED BY LOLITA APIADO DIONES, PETITIONERS, VS. REGIONAL TRIAL COURT, BRANCH 26, WAO LANAO DEL SUR, DOMINGO VALLADOLID AND HEIRS OF BONIFACIO VALLA...

Ponente: INTING, J.

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INTING, J.:

Before Us is a Petition for Annulment of Judgment[1] praying that the Joint Judgment[2] dated February 11, 2013 and all issuances of the Regional Trial Court (RTC), Branch 26, of Wao, Lanao del Sur relative to the proceedings in Civil Case No. 12-22-W be set aside. The dispositive portion of the Joint Judgment reads:

WHEREFORE, based on all the foregoing consideration (sic), judgment is hereby rendered, to wit:

- Ordering the dismissal of Civil Case No. 11-006-W, as plaintiff and defendants Heirs of Melecio Apiado represented by Lolita Apiado Diones, have not clearly established and proved their right of possession over the property in question by preponderance of evidence;
- Ordering defendant Register of Deeds of Lanao del Sur, Marawi City to cancel Katibayan ng Orihinal na Titulo Blg. PAF-6218, issued in the name of HEIRS OF MELECIO APIADO, REP. BY LOLITA APIADO DIONES, by the Department of Environment and Natural Resources (DENR), as null and void;
- Declaring the defendants and plaintiffs Heirs of Domingo Valladolid as the lawful possessor and rightful owners of Lot No. 337 Pls-727, subject of these (sic) litigation and confirming Original Certificate of Title No. CLOA-7940 awarded unto the Heirs of Candelaria Valladolid represented by Jimaro C. Valladolid, by the Department of Agrarian Reform (DAR) as valid;
- Ordering the plaintiff and defendantss (sic) Heirs of Melecio Apiado, represented by Lolita Apiado Diones to solidarily pay defendants and plaintiffs Heirs of Bonifacio Valladolid the amount of Attorneys (sic) fees of thirty thousand (30,000) pesos;
- To pay moral and exemplary damages in the amount of fifty (sic) (50,000) pesos and
- To pay the cost of these proceedings.

SO ORDERED.

Incorporated in the instant petition is a prayer for the issuance by this Court of a temporary restraining order (TRO) and/or a writ of preliminary injunction (WPI) to enjoin both public and private respondents and/or their agents or representatives acting in their behalf in enforcing or implementing the Writ of Execution[3] dated June 7, 2013 and eventually to make the injunctive writ permanent.

After a careful examination of the petition, We have noted the following material dates antecedent to the filing thereof, to wit:

February 11, 2013

The RTC Joint Judgment was promulgated.[4]

A copy of the RTC Joint Judgment was furnished to Atty. Genaro C. Cadigal, Jr., the Apiados' counsel, but petitioner Heirs of Melecio Apiado allege that he neither informed them nor interposed an appeal on their behalf.[5]

June 7, 2013

It is alleged that only on this date did the Apiados learn about the Joint Judgment when the brother of Lolita Apiado Diones informed her about a notice for the hearing on the motion for issuance of writ of execution set on June 6, 2013.[6]

June 7, 2013

The RTC-26 of Wao, Lanao del Sur issued the pertinent writ of execution.[7]

July 31, 2013

The Heirs of Melecio Apiado filed before the RTC-26 of Wao, Lanao del Sur a Motion to Quash Writ of Execution.[8]

November 12, 2013

The RTC-26 of Wao, Lanao del Sur issued a Joint Order denying the Motion to Quash Writ of Execution.[9]

There is no mention, however, of the date of receipt by the Heirs of Melecio Apiado of this Joint Order.

July 16, 2014

The instant petition for annulment of judgment was filed.

We made an observation that petitioners resorted to the instant petition on the ground that the RTC-26 of Wao, Lanao del Sur lacked jurisdiction over the case due to its failure to implead the Department of Environment and Natural Resources (DENR), which is allegedly an indispensable party in the case. Also, petitioners allege that the RTC acted beyond its jurisdiction when it declared the Katibayan ng Orihinal na Titulo Blg. PAF 6218 as null and void since the complaint filed by the Valladolids was for reconveyance of title and damages, not for annulment of title.

After a scrupulous evaluation, the Court resolves to DISMISS the petition outright for lack of merit. Rule 47, Section 5 of the Rules of Court provides that "should the court find no substantial merit in the petition, the same may be dismissed outright with specific reasons for such dismissal."

We find that petition for annulment of judgment will not prosper in favor petitioners. It is clearly provided in Section 1 of Rule 47 of the Rules of Court that apart from the requirement that the existence of "extrinsic fraud" or "lack of jurisdiction" should be amply demonstrated, one who desires to avail this remedy must convince that the ordinary and other appropriate remedies are no longer available for causes not attributable to him.[10] In one case[11], the Supreme Court said:

Let it be stressed at the outset that before a party can avail of the reliefs provided for by Rule 47, i.e., annulment of judgments, final orders, and resolutions, it is a condition sine qua non that one must have failed to move for new trial in, or appeal from, or file a petition for relief against said issuances or take other appropriate remedies thereon, through no fault attributable to him. If he failed to avail of those cited remedies without sufficient justification, he cannot resort to the action for annulment provided in Rule 47, for otherwise

he would benefit from his own inaction or negligence.

In the present case, petitioners merely alleged that they learned of the February 11, 2013 Joint Judgment only on June 6, 2013 due to the failure of their counsel to inform them of said unfavorable decision. They have not clearly demonstrated that the ordinary remedies of new trial, appeal or petition for relief against the assailed Joint Judgment are no longer available to them through no fault on their part.

Additionally, a careful reading of the Verification and Certification of Non Forum Shopping of the instant petition reveals the following defects:

- The Verification and Certification of Non Forum Shopping is signed by Lolita Apiado Diones, the alleged authorized representative of the Heirs of Melecio Apiado, but there is no attached proof of her authority to sign it or to file the instant petition in their behalf;
- The notarial certificate of the Verification and Certification of Non Forum Shopping does not indicate competent evidence of affiant's identity, as defined under Rule II, Section 12 of the 2004 Rules on Notarial Practice. An ID number is indicated but not the ID used; and
- The notarial certificate of the Verification and Certification of Non Forum Shopping does not indicate the serial number of the notary public's commission, the province/city where he is commissioned, and the notary public's office address, as required under Rule VIII, Section 2 of the Rules on Notarial Practice.

The Court is constrained to dismiss the instant petition due to the foregoing defects and the failure of petitioners to clearly establish that the annulment of the Joint Order and all issuances of the Regional Trial Court (RTC), Branch 26, of Wao, Lanao del Sur relative to the proceedings in Civil Case No. 12-22-W is their appropriate remedy.

WHEREFORE, the instant petition is DISMISSED for lack of merit.

SO ORDERED.

Camello, (Chairperson), and Perez, JJ., concur.

[1] Rollo, pp. 2-19

[2] Rollo, pp. 87-100

[3] Rollo, pp. 101-102

[4] Rollo, pp. 8, 87-100

[5] Rollo, p. 9

[6] Rollo, pp. 9, 10

[7] Rollo, pp. 9, 101-102

[8] Rollo, p. 10

[9] Rollo, pp. 10, 109-113

[10] Antonino v. The Register of Deeds of Makati City, G.R. No. 185663, June 20, 2012

[11] Lazaro v. Rural Bank of Francisco Balagtas (Bulacan), Inc., G.R. No. 139895, August 15, 2003

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